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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

THE RHODES COMPANIES, LLC, aka
"Rhodes Homes," et al.,

Reorganized Debtors

Case No.: 09-14814-LBR
(Jointly Administered)

Chapter 11

**JAMES RHODES' NOTICE OF
APPEAL**

☒ Affects all Debtors

☐ Affects the following Debtors

Pursuant to 28 U.S.C. § 158(a) and Fed. R. Bankr. P. 8001 *et seq.*, James M. Rhodes ("Rhodes"), through counsel, hereby appeals from the *Order Sustaining Reorganized Debtors' Objection to James Rhodes' Entitlement to the Tax Claim Found in Proof of Claim No. 814-33*

(the “**Tax Order**”) entered in this case by the Honorable Linda B. Riegle on November 16, 2010¹ [Docket No. 1318], a true and correct copy of which is attached hereto as “**Exhibit A.**”

The names of all parties to the order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Party

Attorneys

Reorganized Debtors

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¹ On July 17, 2009, Rhodes filed proof of claim No. 814-33 (the “**Proof of Claim**”) in the above-captioned bankruptcy case, seeking reimbursement of taxes (the “**Tax Claim**”) and money advanced to Greenway Partners, LLC (the “**Greenway Partners Claim**”). The above Reorganized Debtors objected to the Proof of Claim. Thereafter, the parties agreed that the matter should be bifurcated with respect to Rhodes entitlement to the Tax Claim and the Greenway Partners Claim. On November 16, 2010, the Bankruptcy Court entered the Tax Order, sustaining the Reorganized Debtors’ objection to Rhodes’ entitlement to the Tax Claim. Rhodes timely appealed the Tax Order pursuant to his Notice of Appeal filed November 16, 2010 (the “**Initial Tax Appeal**”). Thereafter, because the Greenway Partners Claim had not been fully resolved, the parties, pursuant to a *Stipulation and Order Dismissing Appeal Without Prejudice* filed April 14, 2011 in the United States District Court, District of Nevada [Case No. 2:10-cv-02101-GMN], agreed and stipulated that the Tax Order from which Rhodes appealed pursuant to his Initial Tax Appeal was not a final, appealable order. The parties further agreed that by dismissal of the Initial Tax Appeal, Rhodes would not waive his right to file a new notice of appeal with respect to the Tax Order upon the issuance of the Bankruptcy Court of a final, appealable order. The District Court approved the stipulation on April 18, 2011 and entered an order dismissing the Initial Tax Appeal, without prejudice [Doc. No. 8]. On December 1, 2011, the Reorganized Debtors filed their *Motion of the Reorganized Debtors for Entry of an Order Approving the Settlement Between James Rhodes and the Reorganized Debtors* (the “**Settlement Motion**”). Pursuant to the Settlement Motion, the parties expressly agreed that upon entry of a final order approving the Settlement Motion, Rhodes shall be entitled to file his notice of appeal with respect to the Tax Claim. On January 11, 2012, the Bankruptcy Court entered an *Order Approving Motion of the Reorganized Debtors for Entry of an Order Approving Settlement Between James Rhodes and the Reorganized Debtors* (the “**Settlement Order**”). The Settlement Order is the final order on the Proof of Claim and the objection to the Proof of Claim.

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Other interested parties to this appeal may include the following:

U.S. Trustee

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*The Litigation Trust of The Rhodes
Companies, LLC, et al.*

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DATED this 25th day of January, 2012.

/s/ David R. Hague

Kevin N. Anderson
David R. Hague
FABIAN & CLENDENIN
Attorneys for James M. Rhodes

EXHIBIT A

4820-2060-2382, v. 1



Entered on Docket
November 16, 2010

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Counsel for Reorganized Debtors

Counsel for Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:

THE RHODES COMPANIES,
LLC, aka "Rhodes Homes," *et al.*,

Reorganized Debtors.¹

§ Case No. 09-14814-LBR
§ (Jointly Administered)
§
§ Chapter 11
§
§ Hearing Date: 11/4/2010
§ Hearing Time: 9:30 a.m. (PST)
§ Courtroom 1

¹ The Reorganized Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, if applicable, are: Heritage Land Company, LLC (2918); The Rhodes Companies, LLC (3060); Rhodes Ranch General Partnership (1760); Tick, LP (0707); Glynda, LP (5569); Chalkline, LP (0281); Batcave, LP (6837); Jackknife, LP (6189); Wallboard, LP (1467); Overflow, LP (9349); Rhodes Ranch Golf and Country Club (9730); Tuscany Acquisitions, LLC (0206); Tuscany Acquisitions II, LLC (8693); Tuscany Acquisitions III, LLC (9777); Tuscany Acquisitions IV, LLC (0509); Parcel 20 LLC (5534); Rhodes Design and Development Corp. (1963); C&J Holdings, Inc. (1315); Rhodes Realty, Inc. (0716); Jarupa LLC (4090); Elkhorn Investments, Inc. (6673); Rhodes Homes Arizona, LLC (7248); Rhodes Arizona Properties, LLC (8738); Tribes Holdings LLC (4347); Six Feathers Holdings, LLC (8451); Elkhorn Partners, A Nevada Limited Partnership (9654); Bravo Inc. (2642); Gung-Ho Concrete, LLC (6966); Geronimo Plumbing, LLC (6897); Apache Framing, LLC (6352); Tuscany Golf Country Club, LLC (7132); Pinnacle Grading, LLC (4838).

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Upon consideration of the pleadings filed by the parties with respect to this matter; and the Court having jurisdiction to consider the Reorganized Debtors' Objection² and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having reviewed the Reorganized Debtors' Objection; the Court hereby finds and determines that, pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure, due and proper notice has been provided to the holder of the Proof of Claim attached as Exhibit A to the Reorganized Debtors' Objection and all other parties entitled to notice; and no other or further notice is necessary; therefore IT IS HEREBY ORDERED THAT:

1. For the reasons stated on the record at the hearing held on November 4, 2010, the Tax Claim in the total amount of \$9,729,151 is hereby disallowed and expunged from the Debtors' claims register;

2. With respect to the remaining claims, there will be a status conference on December 17, 2010 at 9:30 a.m., which counsel may attend telephonically; and

3. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Objection.

1 PREPARED AND SUBMITTED BY:

2
3 By: 

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9 and

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LR 9021(c) Certification:

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

- ☐ The court has waived the requirement set forth in LR 9021(b)(1).
- ☐ No party appeared at the hearing or filed an objection to the motion.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

<u>Party</u>	<u>Approved</u>	<u>Disapproved</u>	<u>Failed to Respond</u>
Edward M. McDonald, Esq., Office of the U.S. Trustee			X
Kevin N. Anderson, Esq.	X		

- ☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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